

COPY

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

NEW YORK, NY

TYSONS CORNER, VA

LOS ANGELES, CA

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

BRUSSELS, BELGIUM

HONG KONG

AFFILIATE OFFICES

BANGKOK, THAILAND

JAKARTA, INDONESIA

MUMBAI, INDIA

TOKYO, JAPAN

FACSIMILE

(202) 955-9792

www.kelleydrye.com

RECEIVED

JUN 28 2004

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 28, 2004

ROBERT J. AAMOTH

DIRECT LINE (202) 955-9676

E-MAIL: raamoth@kelleydrye.com

Ms. Marlene H. Dortch
Secretary
Federal Communications Commissions
445 12th Street, SW, Room TW -A 325
Washington, DC 20554

Re: IB Docket Nos. 02-324, 96-261

Dear Ms. Dortch:

On behalf of Videsh Sanchar Nigam Limited ("VSNL"), a telecommunications carrier in India, I am writing in response to the Public Notice issued by the Commission in the above-referenced proceedings. The Public Notice asked parties to comment on routes that are "believed to be benchmark-compliant" but are not yet exempted from the Commission's International Settlements Policy ("ISP"). The Commission listed the routes which it believes to be benchmark-compliant in Appendix E to the *First Report and Order* (FCC 04-53) released by the Commission in the above-referenced proceedings on March 30, 2004. India was included on the list of countries (see Appendix F) that are considered not to be benchmark-compliant based on currently-available information from the filings of U.S. carriers.

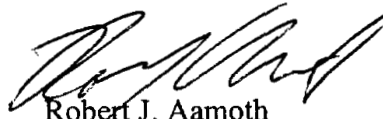
By this letter, VSNL wishes to advise the Commission that the termination rate charged by VSNL in India to each U.S. carrier with whom VSNL exchanges U.S.-originating international switched voice traffic is below the benchmark rate of \$.23/minute (US). We have attached an Affidavit from a responsible VSNL executive to verify this point. As to whether India is a benchmark compliant country, the Commission stated in the *First Report and Order* (fn. 83) that "a determination that the foreign carrier with market power has agreed to rates that are benchmark-compliant is sufficient to determine that the route is benchmark-compliant." Because VSNL, a carrier whom the Commission regards as having market power in India, has agreed to benchmark-compliant rates with U.S. carriers, we submit that India should be placed on the list of benchmark-compliant countries and exempted from the application of the ISP. Even should there be a question whether any rate charged for a past period complied fully with

KELLEY DRYE & WARREN LLP

Ms. Marlene H. Dortch
Secretary
June 28, 2004
Page Two

the benchmark policy, India is "benchmark-compliant," as the Commission has consistently used that term, because current termination rates on the route comply with the benchmark policy.

Sincerely,

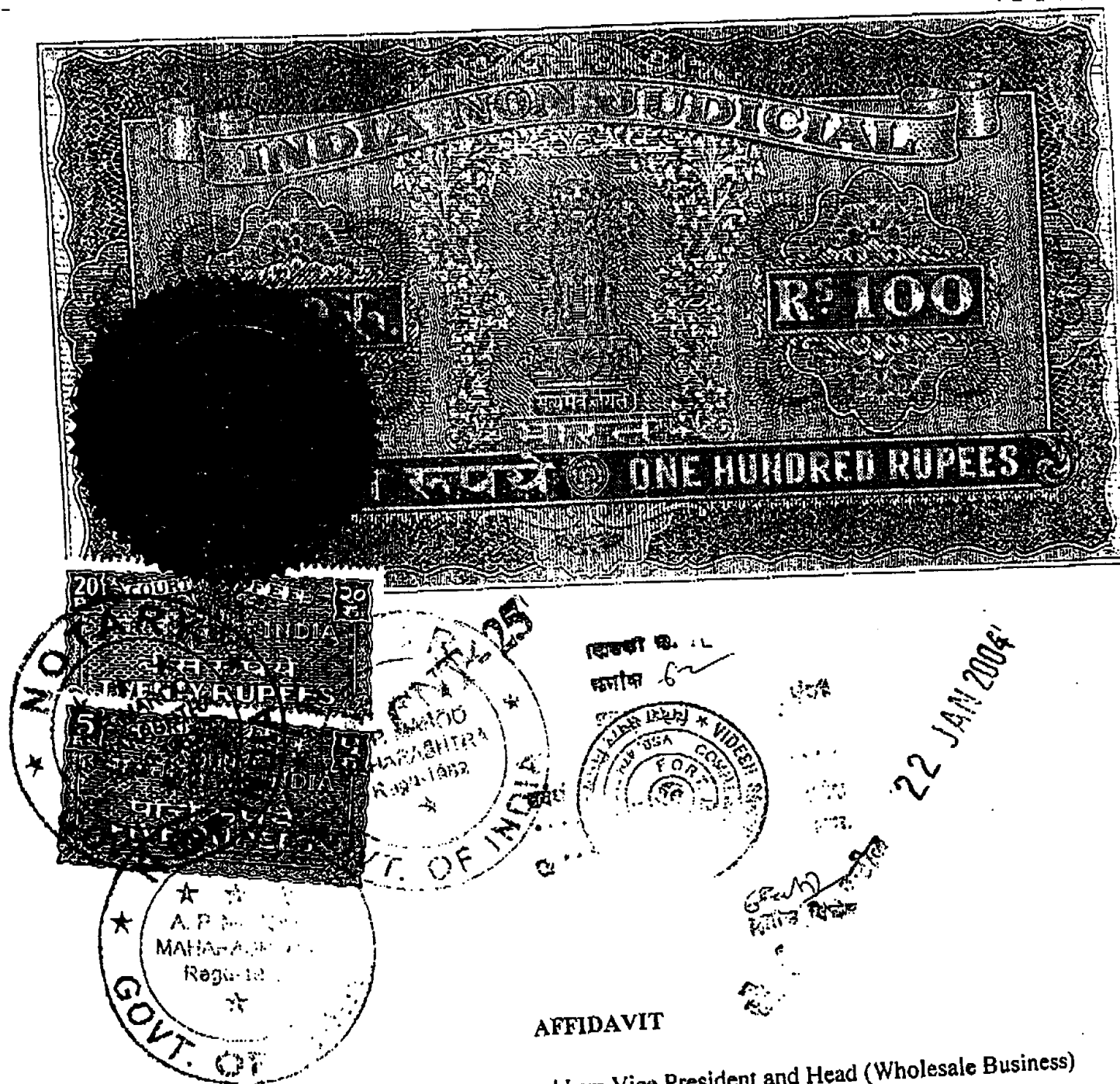


Robert J. Aamoth

RJA:tab

cc: James L. Ball (FCC)
Alexandra Field (FCC)

100Rs.



AFFIDAVIT

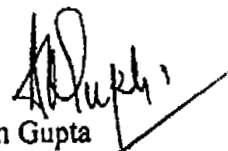
My name is Arun Gupta, and I am Vice President and Head (Wholesale Business) for Videsh Sanchar Nigam Limited ("VSNL"), a telecommunications carrier in India. I am submitting this Affidavit to the Federal Communications Commission in IB Docket Nos. 02-324 and 96-261 regarding whether the U.S.-India route is "benchmark compliant." In my position with VSNL, I have personal familiarity with and knowledge of the rates at which VSNL terminates international switched voice traffic originating in the United States and terminating in India. As such, I can affirm that VSNL terminates 100% of international switched voice minutes


that it receives on the U.S.-India route at rates that are substantially less than the benchmark rate of \$.23/minute (US). In addition, I estimate that VSNL's share of the (lawful) terminating international switched voice market in India is in the range of 40-45% on the U.S.-India route.

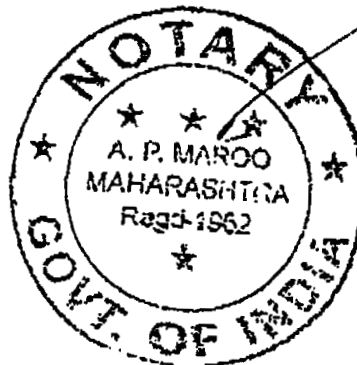
Furthermore, given my position with VSNL, I have familiarity with the termination rates charged by other licensed carriers in India, and I can affirm that such rates also are below the benchmark rate of \$.23/minute (US). I am not aware of any carrier in India (licensed or otherwise) that terminates international switched traffic on the U.S.-India route at a rate that is equal to or higher than the benchmark rate of \$.23/minute (US).

Executed this 28th day of June, 2004.

By:


Arun Gupta
Vice President and Head (Wholesale
Business)
Videsh Sanchar Nigam Limited


N. S. TRIPATHI
A. LL. B.
ADVOCATE HIGH COURT
Lawyer's Chamber, Bhaskar Bldg
2nd Floor, A. K. Marg,
Kandora (East), Mumbai 400 031
Pages 1 9024/449/3



~~BEFORE ME~~

~~A. P. MAROO
NOTARY
MAHARASHTRA
(GOVT. OF INDIA)
TEL. 28771111~~